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S.C. NO. 27496

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

SHELL OIL COMPANY,)	DOCKET NO. 05-0002
Intervenor-Appellant,)	
)	APPEAL FROM THE
vs.)	
)	1) DECISION AND ORDER NO. 21952,
PUBLIC UTILITIES COMMISSION OF)	FILED AUGUST 1, 2005
THE STATE OF HAWAII,)	
Appellee,)	2) ORDER NO. 21994, FILED AUGUST 23,
)	2005
and)	
)	HAWAII PUBLIC UTILITIES
DIVISION OF CONSUMER ADVOCACY)	COMMISSION
DEPARTMENT OF COMMERCE AND)	
CONSUMER AFFAIRS; CHEVRON)	
U.S.A. INC.; and TESORO HAWAII)	
CORPORATON)	
Respondent-Appellees,)	
)	
and)	
)	
HAWAII PETROLEUM MARKETERS)	
ASSOCIATION,)	
Intervenor-Appellee.)	
_____)	

**INTERVENOR-INTERVENOR SHELL OIL COMPANY'S STATEMENT
OF POSITION AS TO APPELLEE STATE OF HAWAI'I PUBLIC
UTILITIES COMMISSION'S MOTION FOR AN ORDER ALLOWING
IT TO TRANSMIT A CERTIFIED COPY OF THE DOCKET ENTRIES
IN LIEU OF THE ENTIRE RECORD, FILED ON OCT. 28, 2005**

Intervenor-Appellant SHELL OIL COMPANY ("Shell"), by and through its attorneys,
Kobayashi, Sugita & Goda, and pursuant to Rule 27 of the Hawai'i Rules of Appellate
Procedure, hereby submits this Statement Of Position as to Appellee State of Hawai'i Public
Utilities Commission's ("PUC") Motion For An Order Allowing It To Transmit A Certified
Copy Of The Docket Entries In Lieu Of The Entire Record, filed on October 28, 2005
("Motion").

Shell first advises that it has no opposition to the PUC's request to transfer a certified copy of the docket entries in lieu of the entire record pursuant to Rule 11(e) of the Hawai'i Rules of Appellate Procedure.


However, by its non-opposition, Shell would specifically note that it does not waive any arguments it may have regarding this appeal and does not stipulate to the facts, arguments and implications set forth in the PUC's Motion.

Further, Shell would respectfully object to the PUC's characterization that "there are issues remaining to be resolved," which will necessarily "implicate this appeal." In this, Shell submits that the two PUC decisions that form the basis of this present appeal – Decision & Order No. 21952 entered on August 1, 2005 and Order No. 21944 entered on September 28, 2005 are final, appealable orders pursuant to Hawaii Revised Statutes ("HRS") §§ 269-15.5 and 91-14. Indeed, the PUC has already implemented the gasoline price cap through its issuance and enforcement of Orders No. 21952 and No. 21944. The PUC continues to enforce said orders at the present time. Any adjustments the PUC may *or may not* attempt to make in the future under HRS chapter 486H will have no retroactive effect on the actions the PUC has already taken in issuing and enforcing Orders No. 21952 and No. 21944.

Accordingly, although Shell does not oppose the PUC's instant request under Rule 11(e) of the Hawai'i Rules of Appellate Procedure, Shell is compelled to set out its position regarding the PUC's characterization of facts and arguments contained the PUC's Motion. Shell hereby respectfully reserves any and all arguments it may have with regard to those facts, arguments and implications for further proceedings on appeal.

NOV 03 2005

DATED: Honolulu, Hawai'i, _____.



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)	
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)	
HAWAII PETROLEUM MARKETERS)	
ASSOCIATION,)	
Intervenor-Appellee.)	
_____)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above document was duly served upon the following parties in the manner described at their following last known addresses:

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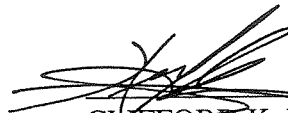
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